

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ALLEN RAY RUSSELL II,

Petitioner,

v.

TIMOTHY WENGLER,

Respondent.

Case No. C07-5506FDB-KLS

ORDER FOR SERVICE AND  
RETURN, § 2254 PETITION

On January 10, 2008, the Court ordered petitioner to file an amended petition naming a proper respondent. (Dkt. #13). On February 7, 2008, petitioner filed just the first page of the form he used to file his original petition, which he had filled out and which named the respondent. (Dkt. #14). The Court assumes petitioner intended to have this first page substituted for the first page of his original petition, which would then constitute the amended petition. While this does not exactly comply with the above order, the Court shall accept the filing of the amended first page of petitioner's petition, and will treat it, along with page 2 through 17 of his original petition (Dkt. #6) as his amended petition.

The Court further hereby ORDERS as follows:

(1) The Clerk shall arrange for service by certified mail upon respondent and the Attorney General for the State of Washington, copies of the amended petition (Dkt. #6 and #14), and all documents in support thereof. All costs of service shall be advanced by the United States. The Clerk shall assemble

1 the necessary documents to effect service. In addition, the Clerk shall send petitioner a copy of this  
2 Order, and the General Order.

3 (2) Within forty-five (45) days after such service, respondent(s) shall file and serve an answer  
4 in accordance with Rule 5 of the Rules Governing § 2254 Cases in United States District Courts. As part  
5 of such answer, respondent(s) should state whether petitioner has exhausted available state remedies,  
6 whether an evidentiary hearing is necessary, and whether there is any issue of abuse or delay under  
7 Rule 9. Respondent shall not file a dispositive motion in place of an answer without first showing cause  
8 as to why an answer is inadequate. Respondent(s) shall file the answer with the Clerk of the Court and  
9 serve a copy of the answer upon petitioner.

10 (3) The answer will be treated in accordance with Local Rule CR 7. Accordingly, upon  
11 receipt of the answer the Clerk will note the matter for consideration on the fourth Friday after the answer  
12 is filed, petitioner may file and serve a response not later than on the Monday immediately preceding the  
13 Friday appointed for consideration of the matter, and respondent may file and serve a reply brief not later  
14 than on the Thursday immediately preceding the Friday designated for consideration of the matter.

15 DATED this 3rd day of March, 2008.

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19 Karen L. Strombom  
20 United States Magistrate Judge  
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